

Lawyers' Advisory Committee Minutes

December 6, 2006

Trenton, NJ

Chairperson John Morton opened the meeting with Chief Judge Wizmur and Judges Ferguson, Gambardella, and Kaplan in attendance.

1. The minutes from the September 19, 2006 meeting were approved.
2. Committee Reports

A. Auctioneer Compensation -Warren Martin

Warren shared the following statistics: Out of a total of 92 districts, 75 Districts had no rule on auctioneer compensation and 17 Districts had rules. Out of the 17 Districts, 8 Districts had the same rule as the Northeast (sliding scale) and 9 Districts had rules that were all over the place.

Question: should the rule be discretionary or mandatory? A suggestion was made to conduct a survey of what auctioneers charge outside of the bankruptcy area. Nona Ostrove commented that there is not a rule for a fee cap for other professionals i.e. realtor's market levels out the playing field. Another meeting is set for January 16, 2007. The committee will propose a rule at the next Lawyer's Advisory Committee meeting.

B. Chapter 13 Sub-committee -Jaimie Finberg

1. Increase in standard no-look fees for secured creditors in connection with MFR/NOD. The sub-committee recommended an increase from \$250.00 to \$350.00. John Morton raised a concern and the issue was tabled. The sub-committee will revisit this issue and report back at the next Lawyer's Advisory Committee meeting
2. Secure creditors fees for Proof of Claim: Marie-Ann Greenberg presented the proposed language to be placed in D.N.J. LBR 2016-1. The sub-committee requested that the proposed language be reviewed by the Board of Judges.
3. Possible revision to the courts website: Len Wizmur raised the issue of whether our local forms could be downloaded in word-perfect as well as in PDF. While it was agreed that word perfect was not really an option, Jim Waldron indicated there was increased space available in PDF forms to include additional information. Counsel could also add an addendum when e-filing if

there is not sufficient room. The chapter 13 subcommittee will review this issue and report back at the next meeting.

C. Attorney Discipline Mentor Committee – no report

3. Clerks report:

A. Jim Waldron reported that 1,400 cases were filed in October 2006 . However, November 2006 did not continue the trend in filings. There is also misinformation in the press that perpetuates the myth that the new code prevents people from filing bankruptcy. - Star Ledger.

4. Liaisons report:

A. United States Trustee's report: Kelly Stapleton reported that Anthony Sodano was leaving the United States Trustee's office to go into private practice effective January 1, 2007. October 18, 2007 starts Operation Truth or Consequences. Seventy eight defendants were found guilty of bankruptcy fraud. Region 3 had 1/6 of all defendants. There is a criminal fraud hotline to report bankruptcy fraud. There is also a site for complaints regarding credit counseling and financial management.. The United State Trustees website has links for the above. Debtor audits commenced on October 20th. The audits are random - 1 out of 250 cases are selected for audits. There have been six (6) in New Jersey so far.

B. District court - no report

C. IRS report - no report

D. New Jersey Attorney General: The following issue was raised: what happens if the plan is confirmed before the 180 day governmental deadline. MAG responded.

Nona questioned service on the State of New Jersey. It was mentioned that Box 112 is listed. Jeanne Naughton will review and update the bankruptcy website if appropriate.

E. NJ State Bar Bankruptcy Section - no report.

5. Old Business

A. **Chapter 13 Sub-Committee: Form Certification and Order on Motion to Refinance – Board of Judges to review.**

B. Secured creditors claims for post-petitions services. This was addressed in the initial report.

6. New business

- A. Pat Staiano :Obtaining ex parte orders seeking temporary restraints without notice to the debtor. Can use of ECF be avoided in this scenario? Pat Staiano presented the issue that arises in this situation. Judge Wizmur indicated that this issue is being reviewed on the national level. Judge Wizmur will report back rather than duplicate the work that has already been done.
- B. Notice to the bar regarding to the annual rule making cycle is public that the rules are published twice a year January 2007 and July 2007. In March 2007, the Board of Judges will consider the proposed rules. Jeanne Naughtin set up a subcommittee. The bankruptcy court in Pittsburgh uses an index to help organize the rules.
- C. Issues Raised by Isabel Balboa:
 - Motions to Sell/Refinance
 - Proposed Form of order for Motion to suspend mortgage trustee payments.
 - Proposed form of order for Motion to Reinstate the chapter 13 case/Automatic Stay.

The chapter 13 subcommittee will review and make recommendations for the next meeting.

7. Date for the next meeting March 7, 2007 location to be announced.